IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5096 of 2005

Ganesh Narayan Galande .. Applicant

V/s

State of Maharashtra .. Respondent

Vikas Shivarkar for Applicant

Ms S.D.Shinde, APP for State

CORAM :A.S.OKA,J.

DATED:19th August, 2005

P.C.:-

1. Heard Advocate for the applicant and learned A.P.P. for State.

2. The offence alleged against the applicant and co-accused Suresh (since deceased) is under Section 302, 201 read with 34 of IPC.

3. The learned Advocate for the applicant submitted that conduct of the applicant as reflected from FIR and statements of witnesses itself shows that the applicant is not involved in the offence. He submitted that first

informant i.e. widow of victim has made remarkable improvement in her version. He pointed out that the statement of the witness who stated that the deceased was last seen with accused has been belatedly recorded. He submitted that after completion of investigation the applicant deserves to be enlarged on bail.

4. The learned A.P.P. submitted that there are statements of eye witnesses which indicate that deceased was seen last together with the Applicant and the said evidence is sufficient to show the involvement of the applicant.

5. I have considered the submissions. F.I.R. has been filed by the widow of the deceased on 22nd February 2005. A missing complaint was earlier filed by widow of deceased stating that from 13th February 2005 from 8-30 p.m. the deceased had not come back to his residence. Only thing she has stated in the said complaint is that when deceased left the house at 8-30 p.m. he was under influence of liquor, and when she refused to pay money for consuming liquor, there was altercation between the two and suddenly the deceased left the house. However, in the FIR filed on 22nd February 2005, the said first informant stated that on 13th February 2005 at about 6-00 p.m. when she came back to the house, the deceased had consumed liquor and he asked the first informant whether she had brought money from co-accused Suresh. She stated that thereafter there was a dispute and at about 7 to 7-30 p.m., Suresh came there when deceased was assaulting her. At that time Suresh gave a

slap to the deceased. According to her till 8-30 p.m., the deceased and Suresh sat outside the house when the applicant came and thereafter three of them left the place. All this is not stated by the complainant in her earlier missing complaint filed on 17th February 2005.

6. The FIR discloses that applicant was regularly visiting the house of first informant for making enquiry about the deceased. The statements of witnesses show that even at the time when dead body of the deceased was brought to the house of the complainant, the applicant was present there. Moreover the dead body of deceased was found in the room of co-accused Suresh. Statement of other witnesses who stated that the applicant, co-accused and deceased were seen last together are recorded after the body of deceased was recovered.

7. In my view the factors which are indicated above are relevant for considering the prayer for grant of bail when admittedly investigation is completed and charge sheet has been filed.

8. The learned Advocate for the applicant stated that the applicant is ready and willing to remain way from the areas where the complainant and witnesses are residing.

9. Hence the applicant is entitled for bail on certain stringent conditions. Hence I pass following order:

i. The applicant shall be enlarged on bail in connection with C.R.No.47 of 2005 registered with Vishrambaug Police Station, Pune subject to furnishing P.R.Bond of Rs.15,000/- with one or two local sureties.

ii. The bail is granted subject to condition that the applicant will not enter the area falling within the limits of Vishrambaug Police Station till conclusion of trial.

iii. This order will be given effect only after the applicant furnishes detailed address of place where he proposes to stay after he is enlarged on bail. The details to be supplied to the Investigating Officer immediately.

iv. The bail is granted subject to condition that the Applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v The applicant shall cooperate with the learned trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi Application is disposed of in above terms.

vii The parties to act upon an authenticated copy of this order.

(A.S.OKA,J.)